In the High Court of Judicature for Rajasthan
Jaipur Bench
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Cr. Msc. Petition No.2121/2007
Jawahar Mal Gupta ***Versus***
State & Sudesh Kulhari

Date of Order ::: 04/12/07

Hon'ble Mr. Justice Ajay Rastogi

Mr. Sunil K.Singodia, for petitioner

Instant petition U/s 482, CrPC is directed against order dt.29/06/07 in Cr. Case No.171/06 whereby Judl. Mag. Pilani (Jhunjhunu) rejected application U/s 311, CrPC for summoning Bank Officer (and to re-call the complainant for further cross examination, which was upheld by Addl. Sess. Judge, No.2 (Fast Track), Jhunjhunu while dismissing Cr.Rev-31/07 (223/07) vide order dt.07/11/07.

Petitioner is facing trial for offence U/s 138 of Negotiable Instruments Act. In course of recording statement of complainant & his witnesses, petitioner cross examined in detail, - copy whereof has been placed on record as Ann.2; and there was no other witness and their evidence was closed and petitioner's statement has also been recorded U/s 313 CrPC, since there is no other witness to get his statement recorded; the matter has ripen for hearing and at this stage, petitioner filed application U/s 311 CrPC to re-call the complainant for his re-cross

examination as he at the stage of recording his statement he deposed that Rs.30,000/- (Thirty thousand) was paid in cash while according to the counsel, he has filed one affidavit making reference of accepting of a sum of Rs.30,870/- (Thirty thousand eight hundred seventy only) in cash. As regards other two witnesses which petitioner intends to cross examine are officers of the Bank, nothing has been mentioned as to what for good reasons, their statements are required to be examined or cross examined. Taking note of the plea raised to re-examine or examine witnesses named therein including Bank's officers, learned trial Magistrate rejected the prayer U/s 311 CrPC vide order dt.29/06/07 and the Court of Revision also after taking note of submissions, did not find any substance therein and rejected the revision petition vide order dt.07/11/07. This Court has gone through the orders impugned and does not find any infirmity which may call interference in inherent jurisdiction.

Counsel further submits that apart from application U/s 311 CrPC which he has filed, alternatively it was also prayed that since document in custody has been forged at a later stage by Bank officer, appropriate action be initiated U/s 193 IPC but no finding has been recorded by trial Judge

despite there being reference made of submissions in the order impugned.

Consequently, misc. petition fails and is hereby dismissed alongwith stay petition. However, petitioner will be at liberty to file fresh application if so advised as regards action sought to be taken U/s 193, IPC; and if such application is filed, the same may be examined under law.

(**Ajay Rastogi), J.**

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